

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4598-09
Bill No.: Truly Agreed To and Finally Passed SS #2 for SCS for HCS for HB 1456
Subject: Employees - Employers; Employment Security
Type: Original
Date: June 7, 2006

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
General Revenue *	(\$1,043,732)	(\$1,580,976)	(\$1,483,351)
Total Estimated Net Effect on General Revenue Fund *	(\$1,043,732)	(\$1,580,976)	(\$1,483,351)

* Subject to appropriation.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
Unemployment Compensation Trust	(\$2,426,985)	(\$9,021,763)	(\$6,747,605)
Various	\$0	(\$42,688)	(\$20,480)
Total Estimated Net Effect on <u>Other</u> State Funds	(\$2,426,985)	(\$9,064,451)	(\$6,768,085)

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 12 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
Various	\$0	(\$21,344)	(\$10,240)
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	(\$21,344)	(\$10,240)

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
Local Government	(\$51,962)	(\$194,881)	(\$153,381)

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Missouri Senate**, the **Department of Economic Development, Division of Workforce Development**, and the **Department of Transportation** assume this proposal would have no fiscal impact on their organizations.

Officials from the **University of Missouri** and **Jefferson County** assumed that a previous version of this proposal would have little or no fiscal impact on their organization.

Officials from the **Office of Administration, Division of Accounting** (OA) stated that OA has administrative responsibility and the statewide appropriation to reimburse Employment Security for unemployment paid for former state employees. OA officials assume that the proposed increases in the maximum weekly benefit would result in an estimated 6.67% increase in state expenditures for 2008 and an estimated 3.2% increase to state expenditures in 2009, as follows:

	<u>FY 2008</u>	<u>FY 2009</u>
General Revenue Fund	\$202,768	\$97,280
Other State Funds	\$42,688	\$20,480
Federal Funds	\$21,344	\$10,240

ASSUMPTION (continued)

OA officials also stated that extending the maturity of the alternative financing instruments to 10 years would increase the total interest costs of a public borrowing beyond the Federal government borrowing costs.

Officials from the **Office of the Secretary of State** stated that many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The Secretary of State's office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to Secretary of State's office for Administrative Rules is less than \$1,500. The Secretary of State's office recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, we also recognize that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what our office can sustain with our core budget. Therefore, we reserve the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

Officials from the **Department of Labor and Industrial Relations** (DOLIR) provided the following information.

Changes to the Missouri Unemployment Compensation Program

To arrive at fiscal impact estimates, the Division of Employment Security (DES) utilizes the Benefit Financing Model established by the United States Department of Labor (USDOL) and works with USDOL actuarial staff to make the necessary adjustments to the model to forecast the impact of proposed legislation.

Governmental agencies and not-for-profit organizations have the option to reimburse the trust fund in lieu of making quarterly contributions. To more clearly define the impact, the costs are distributed among: (1) cost to local government and (2) cost to the Unemployment Compensation Trust Fund (UCTF). It is DOLIR's understanding that the Office of Administration is responding to the impact of this proposal on state government and will determine if any of the proposed changes might adversely impact the state's ability to use alternate financing.

ASSUMPTION (continued)

Several provisions in the proposal would change the way benefits are calculated and paid. These changes include:

- 1) changing the formula whereby the claimant's weekly benefit amount (WBA) is calculated;
- 2) amending existing drug and alcohol related misconduct provisions;
- 3) changing the penalty for misconduct when a claimant has committed multiple disqualifying acts;
- 4) adding provisions that give DES additional tools to use when recovering overpayments; and
- 5) changing the maximum weekly benefit amount.

DES estimates the provisions of this bill would result in an increase in benefits of \$2,592,828 in FY 2007, \$9,813,767 in FY 2008, and \$8,117,230 in FY 2009. Those amounts include the impact from the five provisions listed above and the interactions they have with other trust fund financing components. The impact of a specific provision varies with the average weekly benefit amount (AWBA) and the total weeks compensated (TWC) during a given year.

- Changing the WBA calculation would result in a cost of approximately \$5.5 million in FY 2007 and a savings of \$3.9 million in FY 2008.
- Amending the existing drug and alcohol related misconduct language is estimated to result in savings of \$290,000 during FY 2007, \$450,000 during FY 2008, and \$500,000 during FY 2009.
- Changing the penalty for misconduct when a claimant has committed multiple disqualifying acts is estimated to save \$1.6 million in FY 2007, \$2.7 million in FY 2008, and \$3.1 million in FY 2009.
- Providing additional overpayment recovery tools to the DES is estimated to save \$430,000 in FY 2007, \$700,000 in FY 2008, and \$820,000 in FY 2009.
- Increasing the MWBA is estimated to cost approximately \$7.5 million in FY 2008 and \$11.5 million in FY 2009.

ASSUMPTION (continued)

The proposed changes would also have an impact on projected contributions. The change in contributions is attributable to the interaction between benefits paid and the experience rating system used to calculate an employer's contribution rate. The estimated increase in contributions is \$165,843 in FY 2007, \$792,004 in FY 2008, and \$1,369,625 in FY 2009.

The combined fiscal impact of the proposal would result in a net cost to the UCTF of \$2,426,985 in FY 2007, \$9,021,763 in FY 2008, and \$6,747,605 in FY 2009. Included in these totals are costs to local governments of \$51,962 in FY 2007, \$194,881 in FY 2008, and \$153,381 in FY 2009.

The provisions of this legislation would impact all businesses; however, the economic impact on small business alone cannot be determined.

Missouri War on Terror Veterans Unemployment Benefit Program

The Division of Employment Security plans to interpret this provision as a separate state program with the administrative and benefit costs coming from the War on Terror Unemployment Compensation Fund, subject to appropriation. Currently no appropriation exists for this fund.

The USDOL has previously informed DOLIR that conformity issues would arise with federal law provisions if this program is interpreted to be payable from the UCTF. If the proposed language is enacted with benefits payable from the UCTF, the result could be a loss of approximately \$40 million per year in federal funding for program administration and as much as \$990 million annually in FUTA credits to contributing Missouri employers.

The Division of Employment Security notes that approximately forty-five (45) Uniformed Services Employment and Reemployment Rights Act (USERRA) claims are filed annually in Missouri, and assumes that a similar number of individuals would be eligible for the veterans unemployment benefit program. Assuming that each of these individuals received the full benefit (\$1,153.64 per week x 26 weeks) the annual benefit outlay would total approximately \$1.3 million. In addition, DES assumes the program would need to fund approximately \$125,000 in annual administrative costs. This would include one Claims Technician I, one Contribution Technician I, and one half-time Legal Counsel to implement the program.

DOLIR provided an estimated administrative cost of \$125,333 for FY 2007, \$136,738 for FY 2008, and \$140,170 for FY 2009.

ASSUMPTION (continued)

Oversight has, for fiscal note purposes only, changed the starting salary for the new positions to correspond to the first step above minimum for comparable positions in the state's merit system pay grid. This decision reflects a study of actual starting salaries for new state employees for a six month period and the policy of the Oversight Subcommittee of the Joint Committee on Legislative Research. Further, Oversight has reduced the number of FTE to one Claims Technician I and one half-time Legal Counsel since the program does not provide for employer contributions. Oversight has also adjusted equipment and expense estimates in accordance with Office of Administration budget guidelines.

<u>FISCAL IMPACT - State Government</u>	FY 2007 (9 Mo.)	FY 2008	FY 2009
GENERAL REVENUE FUND			
<u>Cost - DOLIR</u>			
War on Terror Veterans Program			
Personal Service - 1.5 FTE	(\$38,147)	(\$53,099)	(\$54,427)
Fringe Benefits	(\$16,807)	(\$23,395)	(\$29,338)
Expense and Equipment	(\$4,865)	(\$1,714)	(\$1,766)
Computer programming	(\$8,913)	\$0	\$0
Benefits	<u>(\$975,000)</u>	<u>(\$1,300,000)</u>	<u>(\$1,300,000)</u>
Total *	<u>(\$1,043,732)</u>	<u>(\$1,378,208)</u>	<u>(\$1,385,531)</u>
<u>Cost increase - Office of Administration</u>			
Benefit reimbursements	<u>\$0</u>	<u>(\$202,768)</u>	<u>(\$97,820)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND *	<u>(\$1,043,732)</u>	<u>(\$1,580,976)</u>	<u>(\$1,483,351)</u>
* Subject to appropriation.			
OTHER STATE FUNDS			
<u>Cost increase - Office of Administration</u>			
Benefit reimbursements	<u>\$0</u>	<u>(\$42,688)</u>	<u>(\$20,480)</u>
ESTIMATED NET EFFECT ON OTHER STATE FUNDS	<u>\$0</u>	<u>(\$42,688)</u>	<u>(\$20,480)</u>

<u>FISCAL IMPACT - State Government</u>	FY 2007 (9 Mo.)	FY 2008	FY 2009
FEDERAL FUNDS			
<u>Cost increase</u> - Office of Administration Benefit reimbursements	<u>\$0</u>	<u>(\$21,344)</u>	<u>(\$10,240)</u>
ESTIMATED NET EFFECT ON FEDERAL FUNDS	<u>\$0</u>	<u>(\$21,344)</u>	<u>(\$10,240)</u>
UNEMPLOYMENT COMPENSATION TRUST FUND			
<u>Revenue increase</u> - Employment Security Contributions	\$165,843	\$792,004	\$1,369,625
<u>Cost increase</u> - Employment Security Benefits	(\$2,592,828)	(\$9,813,767)	(\$8,117,230)
ESTIMATED NET EFFECT ON UNEMPLOYMENT COMPENSATION TRUST FUND	<u>(\$2,426,985)</u>	<u>(\$9,021,763)</u>	<u>(\$6,747,605)</u>
 <u>FISCAL IMPACT - Local Government</u>	 FY 2007 (9 Mo.)	 FY 2008	 FY 2009
LOCAL GOVERNMENTS			
<u>Cost increase</u> - local governments Benefit reimbursements and contributions	<u>(\$51,962)</u>	<u>(\$194,881)</u>	<u>(\$153,381)</u>
ESTIMATED NET EFFECT ON LOCAL GOVERNMENTS	<u>(\$51,962)</u>	<u>(\$194,881)</u>	<u>(\$153,381)</u>
 <u>FISCAL IMPACT - Small Business</u>			

This proposal would be expected to have a direct fiscal impact to small businesses as a result of the provisions increasing benefits paid and the resulting increased contributions.

DESCRIPTION

This proposal would change several provisions related to the Missouri Unemployment Compensation program. In its main provisions, the proposal would:

- Allow the owner and operator of a motor vehicle which is leased or contracted with a driver to a for-hire common or contract motor vehicle carrier to operate under a certificate issued by the Department of Transportation;
- Specify that the state taxable wage base for calendar year 2008 will be \$12,000. In any year subsequent to 2008, if the average balance of the Unemployment Compensation Trust Fund for the previous four quarters less any outstanding federal Title XII advances and debt attributed to credit instruments and financial agreements or the combination thereof is less than or equal to \$350 million, the taxable wage base for the following calendar year will increase by \$1,000. If the fund balance is \$650 million or more, the taxable wage base for the next calendar year will decrease by \$500, but in no case will the taxable wage base exceed \$12,500;
- Specify that for initial unemployment compensation claims filed during calendar years 2006 and 2007, the maximum weekly benefit amount is 4% of the wages paid to the worker during the highest quarter of the worker's base period;
- Specify that for initial unemployment compensation claims filed during or after calendar year 2008, the maximum weekly benefit amount is 4% of the average quarterly wages paid to the worker during the two highest quarters of the worker's base period;
- Specify that for initial claims filed during calendar year 2006, the maximum weekly benefit amount will not exceed \$270, not exceed \$280 in calendar year 2007, and not exceed \$320 in calendar year 2008;

DESCRIPTION (continued)

- Require the directors of the Division of Employment Security and the Division of Workforce Development within the Department of Labor and Industrial Relations to submit to the Governor, Speaker of the House of Representatives, and President Pro Tem of the Senate by October 15, 2006, a report on recommendations for improving work search verification and claimant re-employment activities. The recommendations will include how to best utilize the greathires.org web site and reduce the average duration of unemployment insurance claims. For each succeeding year, the report will be due by December 31;
- Specify that the test for alcohol or controlled substances be included as evidence in the administrative record if the test was conducted by a laboratory certified by the United States Department of Health and Human Services or another certification organization whose minimum standards meet the same standards;
- Expand the ways by which an employer may notify employees that a positive test for alcohol or controlled substances may result in the suspension or termination of employment;
- Specify that the results of any alcohol or controlled substance test are admissible if the employer's policy clearly states that an employee may be subject to random, pre-employment, reasonable suspicion, or post-accident testing;
- Specify that an employer may require a pre-employment test for alcohol or controlled substances as a condition of employment and the test will be admissible if the employer's policy clearly states that an employee may be subject to random, pre-employment, reasonable suspicion, or post-accident testing;
- Specify that all methods of testing, criteria for testing, chain of custody for samples or specimens, and due process for employee notification procedures do not apply to a claimant subject to the provisions of any collective bargaining agreement if the minimum standards of the conducting laboratory meet or exceed the minimum standards of the United States Department of Health and Human Services;
- Require that a confirmation test include a split specimen test for purposes of determining employee misconduct;

DESCRIPTION (continued)

- Specify that when applying the provisions of the laws regarding employment security, it is the intent of the General Assembly to reject and abrogate previous case law interpretations of "misconduct connected with work" requiring a finding of evidence of impaired work performance;
- Specify that an order to apply for or accept available suitable work may be issued by a deputy of the Division of Employment Security or the designated staff of an employment office;
- Require a claimant who is disqualified from receiving unemployment benefits on a second or subsequent occasion within the base period or within a subsequent base period to earn wages at least six times the claimant's weekly benefit amount for each disqualification;
- Specify that absenteeism or tardiness alone may constitute a rebuttable presumption of misconduct if the discharge was the result of the employer's attendance policy and the employee was aware of the policy prior to being absent or tardy upon which the discharge was based;
- Require the division to cross-check unemployment compensation applicants and recipients with the federal Social Security Administration's data at least weekly;
- Specify that an employer may be assessed an amount solely for the repayment of interest due on federal advances to the Unemployment Compensation Trust Fund;
- Assess an employer a credit instrument and financing agreement repayment surcharge calculated as a percentage of the total statewide contributions collected during the previous calendar year;
- Specify that each employer's proportionate share will be the calculated percentage of the total statewide contributions collected during the previous calendar year multiplied by the employer's contribution due for each filing period during the preceding calendar year;
- Allow the division to use the services of collection agencies to collect any debts;
- Allow any party to a case the right to enter a motion to reconsider a determination by the appeals tribunal;

DESCRIPTION (continued)

- Increase the maximum maturity time period of a credit instrument or a financial agreement offered by the Board of Fund Financing from three years to 10 years after issuance;
- Require the division to recover overpayments of benefits through billings, setoffs against state and federal income tax refunds, and intercepts of lottery winnings; and
- Specify that shared-work benefits may not be denied in any week containing a holiday for which the holiday earnings are paid by the employer unless the shared-work benefits are for the same hours in the same day as the holiday earnings.

The proposal would also add provisions regarding war on terror veteran employment rights and benefits which would:

- Define a "war on terror veteran" as a member of the National Guard or a United States armed forces reserve unit who was deployed after September 11, 2001; employed either full or part time prior to deployment; and was unemployed either during deployment or within 30 days after the completion of his or her deployment;
- Specify that a war on terror veteran is entitled to a maximum weekly benefit equal to 8% of the wages earned during the highest earnings quarter of the five quarters prior to the veteran's deployment. The maximum weekly benefit amount may not exceed \$1,153.64 adjusted annually by the federal Consumer Price Index. A veteran may receive benefits for a maximum of 26 weeks;
- Require an employer who is found by a court to have terminated, demoted, or taken an adverse employment action against a war on terror veteran due to the veteran's absence while deployed to be subject to an administrative penalty of \$25,000; however, the Director of the Division of Employment Security is required to review judgments in suits brought under the federal Uniform Service Employment and Reemployment Rights Act, 38 U.S.C. 4301, and may recognize the judgments as the employer's penalty and waive the \$25,000 administrative penalty;

DESCRIPTION (continued)

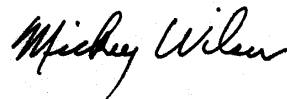
- Specify that a veteran will not be considered to have voluntarily quit if he or she is not offered the same wages, benefits, and similar work schedule upon his or her return to work;
- Create the War on Terror Unemployment Compensation Fund which will consist of administrative penalties paid by employers found in violation of these provisions; and
- Specify that moneys in the fund will be used solely for the administration of the provisions regarding the war on terror veteran unemployment compensation.

The provisions of the proposal would become effective October 1, 2006.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Missouri Senate
Office of the Secretary of State
Office of Administration
 Division of Accounting
Department of Economic Development
 Division of Workforce Development
Department of Labor and Industrial Relations
Department of Transportation
University of Missouri
Jefferson County



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